## UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CASE NO. 3:08-cy-424-RJC

SYNERGY INVESTMENT GROUP LLC,	)	
Plaintiff,	)	ORDER
v .	)	ORDER
PAUL DAVID ISENBERG,	)	
Defendant.	)	

**THIS MATTER** is before the Court on Respondent's Appeal of the Magistrate Judge's Memorandum and Order (Doc. No. 15) and Respondent's Motion to Stay Arbitration (Doc. No. 18).

In the case of non-dispositive pretrial matters under Rule 72(a), "[t]he district judge in the case must consider timely objections and modify or set aside any part of the Magistrate Judge's order found to be clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a). Similarly, pursuant to The Federal Magistrate Act, a judge of the court may reconsider pretrial matters "where it has been shown that the Magistrate Judge's order is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1) (2006). Under this standard, "a finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." <u>United States v. U.S. Nat'l Gypsum Co.</u>, 333 U.S. 364 (1948); Walton v. Johnson, 440 F.3d 160, 173-74 (4th Cir. 2006).

Upon review and consideration of the submissions of the parties and the Magistrate Judge's order, the Court is not left with a definite, firm conviction that a mistake has been made. Thus, since the Magistrate Judge's findings and order are not clearly erroneous, the Court will affirm

the order, dismiss Respondent's appeal, and deny Respondent's Motion to Stay Arbitration as moot.

## IT IS, THEREFORE, ORDERED that:

- 1. The Magistrate Judge's Memorandum and Order (Doc. No. 14) is **AFFIRMED**;
- 2. Respondent's Appeal of the Magistrate Judge's Memorandum and Order (Doc. No. 15) is **DISMISSED** and;
- 3. Respondent's Motion to Stay Arbitration (Doc. No. 18) is **DENIED** as moot.

Signed: October 15, 2009

Robert J. Conrad, Jr.

Chief United States District Judge